

**Information Note for the Bills Committee of
Adaptation of Laws (No. 2) Bill 1998**

At the meeting of the Bills Committee on 14.1.1999, a legal opinion is requested on the question whether a provision of an Ordinance that is outside the ambit of its long title would for that reason become void. Our view is set out below.

2. We have searched local judicial decisions and those of the United Kingdom and major Commonwealth jurisdictions, but are not able to locate any direct ruling on this issue.

3. In the context of statutory interpretation, it is accepted that the long title may be used as an aid in the construction of statutes. There is authority allowing the plain literal meaning of a phrase in an Act to be cut down by the long title (*Watkinson v Hollington* [1943] 2 All ER 573). However, contrary decision also exists (e.g. *R v Gavin* [1987] 2 All ER 851).

4. In the context of an adaptation Ordinance, it seems to us that the provisions of the Basic Law are more relevant. The Court of Final Appeal has stated in its recent judgment in clear terms that laws which are inconsistent with the Basic Law are of no effect and are invalid. It follows that if a provision in an adaptation Ordinance contravenes the Basic Law, it would be void.

5. We would therefore submit that there is as yet no legal principle which says that a provision of an Ordinance would be invalid solely for the reason that it is beyond the scope of the long title unless such provision is in contravention of the Basic Law at the same time.

Prepared by

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